IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 462 of 2006

HEERA LAL
V/S
ROOP LAL & ORS.

Mr. SANDEEP SARUPARIA, for the appellant / petitioner

Mr. DK SHARMA for Mr. HIMANSHU MAHESHWARI & Mr. CP SONI, for the respondent

Date of Order : 3.10.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant, perused the impugned judgment, and the agreement; which actually is a complete sale deed. Since it is unregistered, the suit for its specific performance has been filed.

This agreement is of 11.6.1984, the suit has been filed on 9.5.96. In the meantime, the property had been sold to defendants Shivnarayan and Shyamlal on 6.4.96, by registered sale deed. It is not in dispute, that after the document in question, the seller had mortgaged the property to the Bank, in the year 1986 itself. On the face of the document, which purports to be complete sale, if the seller violates its terms, and mortgaged the property to Bank, the plaintiff could and should have immediately filed the suit, but that having not been filed, the suit filed in the year

1996, has rightly been held by the learned court below to be barred by limitation, in view of the provisions of Article 54 of the Limitation Act.

Thus, I do not find the appeal to be involving any substantial question of law. The same is, therefore, dismissed summarily.

(N P GUPTA),J.

/sushil/